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debtor by the Commission would not otherwise be contrary to law.

§ 1650.308 Accelerated procedures.

The Commission may make an administrative offset against a payment to be made to the debtor prior to the completion of the procedures required by this subpart, if failure to take the offset would substantially jeopardize the Commission's ability to collect the debt, and the time before the payment is to be made does not reasonably permit the completion of those procedures. Such prior offset shall be promptly followed by the completion of the procedures required by this subpart. Amounts recovered by offset but later found not to be owed to the Commission shall be promptly refunded.

§ 1650.309 Additional administrative procedures.

Nothing contained in this subpart is intended to preclude the use of any other administrative remedy which may be available.

Subpart D—Procedures for the Collection of Debts by Administrative Wage Garnishment

SOURCE: 64 FR 28917, May 28, 1999, unless otherwise noted.

§ 1650.401 Purpose and regulatory procedures for the collection of debts by administrative wage garnishment.

The Commission hereby adopts by cross-reference the administrative wage garnishment regulation issued by the Department of the Treasury at 31 CFR 285.11. The general standards and procedures governing the collection, compromise, termination, and referral to the Department of Justice of claims for money and property that are prescribed in the regulations issued jointly by the General Accounting Office and the Department of Justice pursuant to the Federal Claims Collection Act of 1966 (4 CFR Parts 101-105) apply to the administrative collection activities of the EEOC. The Director of the Financial Management Division shall act on all claims arising out of the activities of the EEOC.

PART 1690—PROCEDURES ON INTERAGENCY COORDINATION OF EQUAL EMPLOYMENT OPPORTUNITY ISSUANCES

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Subpart D—Reporting Requirements

- 1690.401 Reporting requirements.

AUTHORITY: Sec. 715 of title VII of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e-14); Reorganization Plan No. 1 of 1978, 43 FR 19807; E.O. 12067, 43 FR 28967.

SOURCE: 45 FR 68361, Oct. 14, 1980, unless otherwise noted.

Subpart A—General

§ 1690.101 Subject.

Procedures on Interagency Coordination of Equal Employment Opportunity Issuances.

§ 1690.102 Purpose.

These regulations prescribe the means by which review and consultation shall occur between the Equal Employment Opportunity Commission and other Federal agencies having responsibility for enforcement of Federal statutes, Executive Orders, regulations and policies which require equal employment opportunity without regard

to race, color, religion, sex, national origin, age or handicap. Subsequent regulations will expand on standards for the coordination of specific matters referenced or alluded to herein.

§ 1690.103 Supersession.

None. These regulations are the first in a series of instructions issued by EEOC pursuant to its authority under Executive Order 12067.

§ 1690.104 Authority.

These regulations are prepared pursuant to the Equal Employment Opportunity Commission's obligation and authority under sections 1-303 and 1-304 of Executive Order 12067 (Providing for Coordination of Federal Equal Employment Opportunity Programs) 43 FR 28967, July 5, 1978. (These regulations will also appear as EEOC Management Directive No. 1000).

§ 1690.105 Policy intent.

These procedures will govern the conduct of such agencies in the development of uniform standards, guidelines and policies for defining discrimination, uniform procedures for investigations and compliance reviews and uniform recordkeeping and reporting requirements and training programs. These procedures will also facilitate information sharing and programs to develop appropriate publications and other cooperative programs. The goals of uniformity and consistency are to be achieved with the maximum participation and review on both an informal and formal basis by the relevant Federal agencies and, finally, by the public.

§ 1690.106 Scope.

These regulations apply to Federal agencies having equal employment opportunity program responsibilities or authority other than equal employment responsibilities for their own Federal employees or applicants for employment. Its provisions do not apply to issuances related to internal management or administration of the agency.

§ 1690.107 Definitions.

(a) *Affected agency* means any agency whose programs, policies, procedures,

authority or other statutory mandates (including coverage of groups of employers, unions, State and local governments or other organizations mandated by statute or Executive Order) indicate that the agency may have an interest in the proposed issuance.

(b) *Agencies* means those Executive and independent agencies, agency components, regulatory commissions, and advisory bodies having equal employment opportunity program responsibilities or authority other than equal employment opportunity responsibilities for their own Federal employees.

(c) *Consultation* means the exchange of advice and opinions on a subject occurring among the EEOC and affected agencies before formal submission of the issuance.

(d) *Formal submission* means the transmittal of a written, publication-ready document by the issuing agency to the EEOC and other affected agencies for at least 15 working days from date of receipt. The formal submission shall take place before the publication of any issuance as a final document.

(e) *Internal or administrative documents*, pursuant to 1-304 of the Order, may include, but are not limited to, forms for internal audit and recordkeeping; forms for performance and program evaluation; internal directives dealing with program accountability; routine intra-agency budget forms; intra-agency agreements; correspondence which does not transmit significant new policy interpretations or program standards having an impact upon other Federal agencies; tables of organization; and other documents setting forth administrative procedures for the conduct of programs. Internal or administrative documents do not include compliance manuals, training materials, publications or any other internal documents setting forth procedures for the resolution of complaints, standards of review or proof, or any other policies, standards or directives having implications for non-Federal employees.

(f) *Issuance* refers to any rule, regulation, guideline, order, policy directive, procedural directive, legislative proposal, publication, or data collection or recordkeeping instrument. It also includes agency documents as described

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above, or revisions of such documents, developed pursuant to court order. *Issuance* does not include orders issued to specific parties as a result of adjudicatory-type processes.

(g) *Order* means Executive Order 12067 (Providing for Coordination of Federal Equal Employment Opportunity Programs).

(h) *Public announcement* means the publication of a document in final form in the FEDERAL REGISTER or any other promulgation for general agency or public reference.

(i) *Significant issuance* means any issuance which the public must be afforded an opportunity to comment upon. In determining whether an issuance is significant, the EEOC shall apply the following criteria:

(1) The type and number of individuals, businesses, organizations, employers, labor unions, or State and local governments affected;

(2) The compliance and reporting requirements likely to be involved;

(3) The impact on the identification and elimination of discrimination in employment;

(4) The relationship of the proposed issuance to those of other programs and agencies.

[45 FR 68361, Oct. 14, 1980, as amended at 45 FR 71799, Oct. 30, 1980]

Subpart B—Responsibilities

§ 1690.201 Responsibilities.

(a) The Associate Legal Counsel, Coordination and Guidance Services is responsible for coordinating the consultation and review process with other agencies on any issuances covered by the Order.

(b) All Federal agencies shall advise and offer to consult with the EEOC during the development of any proposed issuances, concerning equal employment opportunity which affect the obligations of employers, labor organizations, employment agencies or other Federal agencies.

(c) The Equal Employment Opportunity Commission shall advise and offer to consult with the affected Federal agencies during the development of any proposed issuances concerning equal employment opportunity which affect the obligations of employers,

labor organizations, employment agencies or other Federal agencies.

[45 FR 68361, Oct. 14, 1980, as amended at 47 FR 46276, Oct. 18, 1982]

Subpart C—Policies and Procedures

§ 1690.301 Notification to EEOC during development of issuances.

(a) Agencies shall notify the Commission whenever they intend to develop a significant issuance or an issuance affecting other agencies so that potential duplication, overlap, or inconsistency with the proposed issuances of other agencies can be identified before substantial agency time and resources have been expended. The requirement for consultation applies whether or not the agency plans to publish the issuance in the FEDERAL REGISTER for public comment.

(b) Whenever an agency of the Federal government (initiating agency) develops a proposed issuance which will require consultation among the affected agencies, a responsible official of that agency or agency component shall initiate consultation by submitting an early draft of the appropriate documents, preferably after review at the first or second supervisory level, to the chair of the EEOC (ATTN: Associate Legal Counsel, Coordination and Guidance Services). The submission shall be made prior to the point that the issuance is deemed final and ready for publication and shall indicate the appropriate office or person responsible for development of the issuance.

(c) EEOC recognizes that subsequent intra-agency clearance activities may change the policies outlined in the issuance and may add or delete items included in prior drafts. Therefore, during this period of policy development, an initiating agency shall not be bound by the contents of drafts which precede the final draft.

(d) Except as provided in § 1690.307, in no instance shall there be formal submission to the EEOC or the affected agencies without prior consultation pursuant to section 1-304 of the Order.

(e) Where an agency issuance is related to the internal management or administration of the agency, the

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issuance is exempt from the consultation process under the Order. The initiating agencies will make the determination of what must be submitted. When the agencies are in doubt, EEOC will determine the extent to which a particular issuance is covered by this exemption.

[45 FR 68361, Oct. 14, 1980, as amended at 47 FR 46276, Oct. 18, 1982]

§ 1690.302 Issuances proposed by EEOC.

Whenever the EEOC proposes to develop a significant issuance or any issuance requiring consultation, the procedure outlined in these regulations, shall also apply, as set forth in section 1-303 of the Order. The EEOC shall advise and consult with other affected agencies whenever it develops an issuance, in the same manner and to the same extent as other agencies are required to do in § 1690.301 of this part, and in other sections below.

§ 1690.303 Consultation with affected agencies.

At the start of consultation, the EEOC shall determine which other agencies would be affected by the proposed issuance, and the initiating agency shall consult with such agencies. Initiating agencies shall also consult with other agencies which claim that their internal equal employment opportunity or personnel programs are affected by proposed issuances otherwise directed at external equal employment opportunity efforts. Agencies may consult with any other agencies that they believe would be affected by the issuance. The consultation period shall be determined by the parties. During the consultation period, the EEOC shall seek to resolve any disputes with the initiating agency before publication.

§ 1690.304 Coordination of proposed issuance.

(a) *Procedure for publication of proposed issuance.* (1) If the initiating agency, after consultation with EEOC, proposes to publish the issuance for purposes of receiving comments from the public, it shall confer with EEOC and agree on a mutually agreeable length of time, no less than 15 working

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days, during which the proposal shall be submitted to all affected Federal agencies pursuant to section 1-304 of the Order. The period of review shall be sufficient to allow all affected agencies reasonable time in which to properly review the proposal.

(2) When an affected agency wishes an extension of the review period, it shall make such request of the initiating agency. If the initiating agency does not grant the request, the affected agency may then make that request of EEOC. EEOC may, at its discretion, grant the additional time requested, whereupon EEOC will inform the initiating agency which shall extend the review period. EEOC shall also inform the initiating agency of the reasons for the extension.

(3) After 15 working days, if the EEOC has not requested an extension of time or otherwise communicated the need for more time to review the proposal, the initiating agency may proceed to publication of the proposed significant issuance for public comment for at least 60 days.

(4) During this public comment period, certain issues may be submitted to employer and employee representatives for comment pursuant to section 2(c) of Executive Order 12044 (Improving Government Regulations) which requires that agencies give the public an early and meaningful opportunity to participate in the development of significant regulations.

(b) *Procedure for publication of final issuance.* After the period for public comment has closed, the initiating agency shall then incorporate the changes it deems appropriate and forward to EEOC for review, a copy of the document as published, a copy of the document as amended, with changes highlighted, any staff analysis, and a list of commentors. EEOC or affected agencies may review and copy the comments received. The time needed to review these materials shall be agreed on by the EEOC and the initiating agency. After completion of this review, the initiating agency shall formally submit the proposed final issuance to all affected agencies for at least 15 working days prior to publication.

§ 1690.305 Nondisclosure of proposed issuances.

(a) In the interest of encouraging full interagency discussion of these matters and expediting the coordination process, the EEOC will not discuss the proposed issuances of other agencies at an open Commission meeting where disclosure of information would be likely to significantly frustrate implementation of a proposed agency action. The Commission will make this determination on a case by case basis.

(b) Requests by the public for drafts of proposed issuances of another agency will be coordinated, in appropriate circumstances, with that agency and the person submitting the request shall be so notified. The decision made by that agency with respect to such proposed issuances will be honored by the Commission.

[45 FR 68361, Oct. 14, 1980, as amended at 45 FR 71799, Oct. 30, 1980]

§ 1690.306 Formal submission in absence of consultation.

If an initiating agency has an issuance which was already under development on or before July 1, 1978, when Executive Order 12067 became effective, and on which there has been no consultation, the agency shall immediately notify the EEOC of the existence of such proposals and the following procedure shall apply:

(a) EEOC shall confer with the initiating agency and shall determine whether the proposal should be the subject of informal consultation and/or formal submission to other affected Federal agencies pursuant to section 1-304 of the Order. This does not preclude the right of the agency to consult with any other agency it wishes.

(b) If the EEOC decides that informal consultation and/or formal submission is necessary, it shall confer with the proposing agency and agree on a mutually acceptable length of time for one or both (the informal consultation and/or formal submission).

(c) The period of formal submission shall be sufficient to allow all affected agencies time in which to properly review the proposal. While such period may be longer, in no instance may it be shorter than 15 working days.

§ 1690.307 Temporary waivers.

(a) In the event that the proposed issuance is of great length or complexity, the EEOC may, at its discretion, grant a temporary waiver of the requirements contained in § 1690.303 or § 1690.304. Such waivers may be granted if:

(1) The period of consultation and thorough review required for these documents would be so long as to disrupt normal agency operations; or

(2) The initiating agency is issuing a document to meet an immediate statutory deadline; or

(3) The initiating agency presents other compelling reasons why interim issuance is essential.

(b) In the event of a waiver, the initiating agency shall clearly indicate that the issuance is interim, has been published pursuant to a waiver, and is subject to review. EEOC reserves the right, after publication, to review the document in light of the objectives of the Order. The initiating agency may make substantive conforming changes in light of comments by EEOC and other affected agencies.

[45 FR 68361, Oct. 14, 1980, as amended at 45 FR 71799, Oct. 30, 1980]

§ 1690.308 Notice of unresolved disputes.

(a) The disputes resolution mechanism in section 1-307 of the Executive Order should be used only in extraordinary circumstances, and only when further good faith efforts on the part of the EEOC and the agency involved would be ineffective in achieving a resolution of the dispute. Before using the disputes resolution mechanism, the EEOC or the initiating agency must have fully participated in the coordination process, including giving notification to the EEOC and the affected agencies of its intention to publish in final within 15 working days.

(b) EEOC or the affected agency shall then send written notification of the dispute and the reasons for it to the EEOC and to the other affected agencies. Thereafter, but within the 15 day notice period, the EEOC or the affected agency may refer the dispute to the Executive Office of the President. Such reference may be made by the Chair of

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the EEOC or the head of the Federal agency. If no reference is made within 15 working days, the decision of the agency which initiated the proposed issuance will become effective.

§ 1690.309 Interpretation of the Order.

Subject to the dispute resolution procedures set forth above and in accordance with the objectives set forth in 1-201 and the procedures in 1-303 of the Order, the EEOC shall interpret the meaning and intent of the Order. EEOC also will issue procedural changes under the Order, as appropriate, after advice and consultation with affected agencies as provided for in these procedures.

Subpart D—Reporting Requirements

§ 1690.401 Reporting requirements.

The regulations do not establish reporting requirements other than the required notices of proposed rule-making and formal and informal review.

PART 1691—PROCEDURES FOR COMPLAINTS OF EMPLOYMENT DISCRIMINATION FILED AGAINST RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE

Sec.

1691.1 Purpose and application.

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1691.5 Agency processing of complaints of employment discrimination.

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1691.10 Agency enforcement of unresolved complaints.

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1691.12 Interagency consultation.

1691.13 Definitions.

AUTHORITY: E.O. 12250, 45 FR 72995 (November 4, 1980) and E.O. 12067, 43 FR 28967 (June 30, 1978).

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SOURCE: 48 FR 3574, Jan. 25, 1983, unless otherwise noted.

§ 1691.1 Purpose and application.

The purpose of this regulation is to implement procedures for processing and resolving complaints of employment discrimination filed against recipients of Federal financial assistance subject to title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, the State and Local Fiscal Assistance Act of 1972, as amended, and provisions similar to title VI and title IX in Federal grant statutes. Enforcement of such provisions in Federal grant statutes is covered by this regulation to the extent they relate to prohibiting employment discrimination on the ground of race, color, national origin, religion or sex in programs receiving Federal financial assistance of the type subject to title VI or title IX. This regulation does not, however, apply to the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Juvenile Justice and Delinquency Prevention Act, as amended, the Comprehensive Employment Training Act of 1973, as amended, or Executive Order 11246.

§ 1691.2 Exchange of information.

EEOC and agencies shall share any information relating to the employment policies and practices of recipients of Federal financial assistance that may assist each office in carrying out its responsibilities. Such information shall include, but not necessarily be limited to, affirmative action programs, annual employment reports, complaints, investigative files, conciliation or compliance agreements, and compliance review reports and files.

§ 1691.3 Confidentiality.

When an agency receives information obtained by EEOC, the agency shall observe the confidentiality requirements of sections 706(b) and 709(e) of title VII as would EEOC, except in cases where the agency receives the same information from a source independent of EEOC or has referred a joint complaint to EEOC under this regulation. In such cases, the agency may use independent